

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

JASON COOKSEY et al

PLAINTIFFS

VERSUS

CIVIL ACTION NO. 1:18CV49-LG-RHW

HUNT SOUTHERN GROUP, LLC et al

DEFENDANTS

ORDER GRANTING MOTION FOR PROTECTIVE ORDER

Before the Court is Defendants' motion for protective order relating to subpoenas issued to non-party contractors and consultants who were involved in the original construction of military housing at Keesler Air Force Base and the moisture remediation project that followed construction. Doc. [113]. The subpoenas in question are directed to the original contractor, two consultants, and five contractors who performed work related to the moisture remediation project. Plaintiffs seek documents relating to 1,057 homes at Keesler Air Force Base and the work done on those properties. Defendants request that the subpoenas be limited to the ten properties where Plaintiffs in this and nine related cases resided and where they allege they were exposed to mold. The parties agree that Defendants have standing to challenge the subpoenas through a motion for protective order.

Defendants argue that work orders, maintenance records, complaints of moisture-related problems, or repairs for moisture-related problems at other residences during the moisture remediation project are not relevant to what Plaintiffs experienced at the subject properties. Defendants further argue that Plaintiffs' requests appear to be an impermissible fishing expedition to identify new claims or claimants. Plaintiffs counter that they are entitled to discover records related to maintenance, construction, and inspection of all contaminated Keesler AFB units from date of construction to the present. Plaintiffs argue that the evidence is relevant to demonstrate that Defendants were aware of across-the-board problems and chose to address

the problem in phases. Thus, the records relate to Defendants' pattern of conduct; their individual or collective knowledge of the mold problem; and the extent of the mold problem at Keesler AFB. Plaintiffs further argue that the information is relevant to certain of Defendants' anticipated defenses, such as whether the scope and timeline for the moisture remediation project were reasonable and whether these measures were sufficiently effective in addressing the mold and moisture issues. Plaintiffs also argue that the subpoenas are relevant to whether Defendants took adequate steps to address the moisture-related problems in an expeditious manner and whether Defendants were negligent in creating a multi-phase, multi-year moisture remediation project.

The Court finds that the non-party subpoenas are overly broad and not proportional to the needs of the case. The Cookseys allege that they were exposed to mold in their home on Keesler AFB which resulted in health complications. Their request for documents and information on 1,057 other properties from the time of their construction to the present is not proportional to the needs of the Cookseys' case. The relevant inquiry in this case is whether the Cookseys were exposed to mold at their residence and whether the mold exposure caused them injuries. The construction and remediation of other properties has little, if any, relevance to the Cookseys' claims.

IT IS THEREFORE ORDERED AND ADJUDGED that Defendants' [113] Motion for Protective Order is GRANTED, such that the subpoena response should be limited to the ten properties of the Plaintiffs in this and nine related cases.

SO ORDERED AND ADJUDGED, this the 7th day of November 2018.

/s/ Robert H. Walker

ROBERT H. WALKER
UNITED STATES MAGISTRATE JUDGE